

Meeting of 2002-2-26 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
FEBRUARY 26, 2002 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk
COL George Steuber, Fort Sill Liaison

The meeting was called to order at 6:35 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

PRESENT: Randy Bass, Ward One
James Hanna Ward Two
 Glenn Devine, Ward Three
John Purcell, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

ABSENT: None.

AUDIENCE PARTICIPATION: None.

CONSENT AGENDA :

Separate consideration was requested for Items 3, 6, 7, 9 and 15.

MOVED by Shanklin, SECOND by Baxter, to approve the Consent Agenda items as recommended with the exception of Items 3, 6, 7, 9 and 15. AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for denial: Alexander and Freddie M. Stiff. Exhibits: Legal Opinion/Recommendation. Action: Denial of claim.
2. Consider adopting a resolution ratifying the action of the City Attorney in filing and making payment of the judgment in the Workers' Compensation case of Stacey E. James in the Workers' Compensation Court, Case No. 2000-18939Y. Exhibits: Resolution No. 02-29.

(Title) Resolution No. 02-29

A resolution ratifying the actions of the City Attorney in making payment of the judgment in the Workers' Compensation case of Stacey E. James for the amount of Twenty Two Thousand Nine Hundred and Eighty Nine Dollars (\$22,898.00), per order of the Workers' Compensation Court, and filing a foreign judgment in the District Court of Comanche County for purposes of placing said judgment on the tax rolls.

3. Consider authorizing the City to accept a settlement payment of \$3,600.00 as rental from Amsco Outdoor Advertising, Inc. and authorize the Mayor and City Clerk to execute the acceptance. Exhibits: None.

Bass asked why the City was getting \$100 per month for the sign instead of the \$200 it got before. Vincent said the man who had the lease with the City is now serving a life sentence in prison and the company that took over from him did so without the permission of the City, and demand letters were sent when this was discovered. Vincent said the City is owed approximately \$5,500 and has received an offer to settle for \$3,600, which appeared to be a fairly good deal. Shanklin asked if the City would receive \$200 a month in the future. Vincent said the property has now been sold to LURA and this will clear the City through January 1, 2002, and it would then be up to LURA to handle,

and LURA has made indications that they will not extend the sign past July 1, 2002, but the City Planner could address that further.

MOVED by Bass, SECOND by Baxter, to approve the item as recommended. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.

4. Consider accepting two permanent utility easements in Lot 1, Block 6, Western Hills Addition, Part 1, to the City of Lawton, which have been donated by Scott 53rd Street Properties, LLC, and E&M Oil Company, and authorize the Mayor and City Clerk to execute the acceptance. Exhibits: None. Action: Approval.

5. Consider appropriating \$2,149.00 from the Council Contingency Fund to the City Transit Trust to award City Transit Trust Project #2002-2 (fuel tank). Exhibits: None. Action: Approval.

6. Consider awarding a construction contract to K.C. Electric for the McMahon Park & Ahlschlager Park Lighting Project #2001-18. Exhibits: None.

Devine asked why Electro-Craft would not be allowed to have the 5% local vendor preference. Baker said the 5% local preference is for materials and supplies but it does not pertain to construction.

MOVED by Devine, SECOND by Shanklin, to award to K.C. Electric in the amount of \$251,745.35. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Bass, Hanna. NAY: None. MOTION CARRIED.

7. Consider approving plans and specifications for the McMahon Skate Park Project #2001-16 and authorizing staff to advertise for bids. Exhibits: None.

Bass asked how much money was left in the 1995 CIP fund. Steve Livingston, Finance Director, said he thought there were uncommitted funds of about \$300,000; there are a lot of appropriated funds and funds that are not under contract but he was speaking of unappropriated funds in the 1995 CIP and it was \$200,000 to \$300,000 but he was not prepared to state an exact number.

MOVED by Bass, SECOND by Baxter, to approve the item as recommended.

Purcell said the commentary shows that funding is available in the 1995 CIP in the amount of \$210,000. Mayor Powell said Bass was asking how much was remaining in the 1995 CIP. Purcell said he thought that was what this was. Livingston said he was estimating about \$200,000 to \$300,000 in the 1995 CIP. Purcell said if we spend \$200,000 on this project, there will basically be only \$10,000 left. Livingston said yes.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine. NAY: None. MOTION CARRIED.

Baker said he thought there was some confusion on the funding and he would get exact numbers, but if he was correct, the \$210,000 had already been appropriated for the skate park as part of the \$3 million mini-CIP that Council directed, but Livingston was referring to the unappropriated balance.

8. Consider approving the plans for the construction of an 8-inch waterline along US 281B, east of SW 11th Street. Exhibits: Map. Action: Approval.

9. Consider approving a contract between the City of Lawton and the Oklahoma Highway Safety Office for seat belt enforcement. Exhibits: None.

Baxter said he was unable to support the item, that he was in a car wreck and was told he lived because he was not wearing a seat belt and he did not think it was right for the Council to authorize overtime for the police officers to harass our citizens because they do not have their seat belt on while they are sitting at a red light, and if we have so much money and can authorize the overtime, we need to raid some of the drug houses.

Baker said this is for overtime for police officers but it is a special grant of \$20,000 that must be used for seat belt enforcement so the question is does the City Council want to take advantage of that \$20,000 to be used for enforcement of the seat belt laws or to just forget it; it is not City operating money.

Shanklin asked if there was a penalty for not enforcing the seat belt law and said you cannot ignore it.

Bass said the program is supposed to go on for six months and asked if the \$20,000 grant would be enough money to fund that six-month project. Bill Adamson, Police Chief, said they would work it out so it would run for that length of time and when the \$20,000 is gone, the project would be finished. Adamson said he would like to make the comment that the Lawton Police Department does not harass our citizens, but we enforce the law.

MOVED by Baxter, to deny the grant. Motion died for lack of a second.

MOVED by Bass, SECOND by Haywood, to approve the item as recommended. AYE: Shanklin, Moeller, Haywood, Bass, Hanna, Devine, Purcell. NAY: Baxter. MOTION CARRIED.

10. Consider allowing the Parks & Recreation Department to individually Co-sponsor with the Lawton Chamber of Commerce, Cameron University, Lawton Public Schools and Lawton/Fort Sill Coop a series of softball tournaments for the year 2002. Exhibits: None. Action: Approval.

11. Consider authorizing an agreement between the City and Marie Detty Youth and Family Services Center for the sponsorship of youth recreation programs. Exhibits: None. Action: Approval.

12. Consider accepting a Notice of Grant Award (NGA) - Federal Funding Certification from the Corporation for National Service (CNS) for the Retired and Senior Volunteer Program (RSVP). Exhibits: Notice of Grant Award. Action: Approval.

13. Approval for Arts & Humanities Division to apply for a Local Government Challenge Grant from the Oklahoma Arts Council for the FY 2002-2003. Exhibits: None. Action: Approval.

14. Consider acknowledging receipt of permit from the Oklahoma State Department of Environmental Quality for the construction of sanitary sewer line with appurtenances to serve Gene Burk Auto Glass. Exhibits: None. Action: Approval.

15. Consider entering into contracts with Mr. & Mrs. Eugene P. Wallock, Chester Whitaker, David King, Catherine Fowler, Travis Hunter, and Susan R. Pollock for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contracts. Exhibits: None.

Purcell asked if the Fire Department was being overwhelmed with these requests, and how can crews respond if two are called in at the same time. Bart Hadley, Fire Chief, said it is not overwhelming, although there are a number of contracts, but crews are rarely called to respond outside the city limits. He said he planned to work on a policy to limit the scope of outside fire contracts to properties within a certain radius of a fire station and with a water supply within a reasonable distance.

Shanklin asked if we respond to a call if it is next door to a property that is under contract if it is called in to 911 in the city or county, and what happens when we respond to a fire where we have not been asked for assistance. Hadley said they are chastised because technically they have broken the law by spending city funds outside the city limits without a contract in place; he said they responded to the Pecan Valley School fire through a mutual aid agreement with the City of Cache, which requested assistance in that case.

Shanklin said other cities charge for this service on a yearly basis, whether you use it or not, because the money supports the manpower and equipment to respond. Hadley said he would be willing to entertain that; it was discussed previously and there was concern about accepting money for a subscription service where residents could have some reasonable expectation of service. He said the contracts now state that we will respond only if units are available so if there is a major event that affects both the county citizens and those within the city limits, crews will respond inside the city limits but not in the county in that instance, but if units are available, we do respond outside the city limits.

Shanklin said he had a fire at a rental property recently and the unit responded from 45th Street, rather than Central because that unit had been pulled some place else, so that is four miles or more they had to go to respond. He said if we are providing a service and people want it, they should pay on it like they would on an insurance policy.

MOVED by Shanklin, SECOND by Purcell, to approve Item 15 as recommended.

Bass asked if all of these houses are located together or if they are scattered throughout the county. Hadley said they are scattered and it is not just one housing development. Shanklin asked that information be provided on how far outside the city limits crews could be called.

VOTE ON MOTION: AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

16. Consider approving the following contract extension: A) Crane Service with Belger Cartage Service. Exhibits: None. Action: Approval.

17. Consider rejecting contract for Laboratory Services of Toxic Pollutants. Exhibits: Recommendation; Bid Abstract. Action: Reject bids.

18. Consider awarding contract for Police Duty Gear. Exhibits: Recommendation; Abstract. Action: Award to

Skaggs Public Safety.

19. Consider awarding contract for Manhole Rings and Covers. Exhibits: Recommendation; Bid Abstract. Action: Award to Neenah Foundry Company.

20. Consider awarding contract for Biomonitoring Testing. Exhibits: Rec.; Abstract. Action: Award to Red Earth Enviro-Lab, Inc.

21. Consider approval of appointments to boards and commissions. Exhibits: Memo.

Lawton Urban Renewal Authority: Jerry Evers, 8/1/01 to 7/31/04; Albert Johnson, 8/1/01 to 7/31/04

Human Rights & Relations Commission: Bernice Melvin, African American Rep., 2/26/02 to 9/30/04; Grace Ross, Native American Rep., 2/26/02 to 9/30/04

Project Impact Steering Committee: John S. Jones, Real Estate Rep., 2/26/02 to 2/26/04; Dennis Hergenrether, Fort Sill Rep., 2/26/02 to 2/26/04

Lawton Airport Authority: Don L. Smith, 2/26/02 to 2/26/05

22. Consider approval of payroll for the period of February 18 through March 3, 2002.

23. Consider approval of Minutes of Lawton City Council Regular Meeting of February 12, 2002.

BUSINESS ITEMS:

24. Hold a public hearing and consider an ordinance amending Section 18-113, modifying the procedure for uses permitted on review, and Section 18-114, modifying the procedure for amendments to the land use plan and zoning districts, Chapter 18, Lawton City Code, 1995. Exhibits: Ordinance No. 02-8; Matrix; CPC Minutes.

Mayor Powell said this is a great city because of its volunteers, and there are two great sets of volunteers here tonight and we appreciate them. The reason the Mayor's task force on studying the codes was put together was because it had been said many, many times for many, many years that it was hard to do business here, and he was asked to put this together and it is for the benefit of every citizen, for those who live here or want to come here and do business and regardless of what the paper says, this is not about helping those people in the building profession. He said he did not know of one thing yet that had come across his desk from this task force that had been beneficial to builders, but it is for those people trying to do business in the Lawton/Fort Sill community and that is what this is all about. It has been many years since our codes have been reviewed and updated and prior to bringing anything to Council, he had met, with the exception of one item on here tonight that he was bypassed on, but he had met with Bigham and Baker and reviewed every item they recommended a change be made on and had their blessing before he ever brought it to the Council so this is not a lop-sided affair whatsoever, it is just trying to make this a better city where people can do business and feel good about it once they leave the confines of City Hall.

Bob Bigham, City Planner, said the City Planning Commission (CPC) held their first public hearing on this issue on July 12, 2001, and since then there have been five CPC meetings at which this ordinance has been reviewed, as well as five Mayor's Task Force and two subcommittee meetings of those groups. An ordinance is included in the packet with all of the changes recommended by the CPC. The CPC on January 24 recommended by a seven to zero vote to recommend the ordinance that is in the packet. During the process of the Mayor's Task Force, subcommittees and review of the CPC, there was a lot of give and take and many compromises were made but it seems there is one issue that the two groups do not concur with, however, all the other changes have been incorporated into the ordinance as recommended by the Task Force and reviewed by the CPC. There is one additional issue regarding putting a mandatory time limit for staff to schedule this to a CPC meeting and staff will receive direction in that regard.

Bigham said the agenda folder contains the ordinance as well as five sets of CPC minutes dated July 12, August 23, September 27, October 25 and January 24. Attached to one set of minutes is an ordinance that has comments in the margins indicating the Task Force recommendations. A matrix is included to try to simplify the various sections of the ordinance; the matrix shows what came out of the subcommittees of the two groups and 18-114, A 1 B, is the issue that the two groups do not concur on. He said he understood from the last subcommittee meeting that everyone was in concurrence and both subcommittee chairs are present, Mr. Ferguson from CPC and Mr. Richards from the Task Force. Bigham said they could go through all of the issues but the site plan is where they are totally apart, and direction could be provided on the mandatory requirement for getting it scheduled for a CPC meeting. He said a majority of the CPC members are present and it is a real honor for staff to have them come to a Council meeting; Chairman Pat Henry, Alvis Kennedy, Jim Ferguson, Tony Layton, Doris Fuller, John Pereira and Tom Linville. He said he would answer questions and the Chairman would like to address the Council.

Hanna asked if a hearing would be scheduled on the site plan issue or if it would be considered at this time. Bigham said the CPC recommendation by 7-0 vote is the requirement for a site plan to be submitted with a rezoning application. Hanna asked whose requirement that is, the city or state. Bigham said it would be a City of Lawton requirement. Hanna asked if we would be the only city in Oklahoma, or a two state area, that would require a site plan. Bigham said he would respectfully disagree with that statement, there are other cities in the state that do require a site plan with their rezoning; the way this ordinance started out it was a site plan required that would be attached to the rezoning ordinance and that's what had to be built; this was what Norman requires so they do require a site plan along with the rezoning and it goes to the next level and is attached to the ordinance whereby that is what the applicant has to build; there are provisions for changing it but there are other cities that do require site plans.

Baker said we have another group represented this evening and he would mention that we have several members of the Mayor's Task Force here, including the chairman and we want to recognize them also and thank them for being here, and also you should have received a recommendation from the Mayor's Task Force today, a memorandum, and this offers a compromise or a different suggestion and he wanted to make sure Council was aware of that and that they did receive that. Mayor Powell said it was passed out earlier and he got a copy of it this morning.

Bigham said a comment on Baker's observation is that staff has examples of what the Task Force recommendation site plan requirement would be as opposed to what we have been receiving with rezoning applications in the past so we have several examples of that if the Council would like to see those. Shanklin said we need to see them.

Mayor Powell said it should be clarified that a site plan would be required prior to a building going up. Bigham said prior to the issuance of a building permit, a site plan is required; the purpose of the site plan with the rezoning is to provide that information to the decision makers and recommending body, as well as the neighbors, and the CPC members would like to address their rationale for that.

Devine said it seemed lop-sided because there is a debate going on and it is kind of one sided, the Planning Commission wants to see one thing and we are not including the Task Force, and he was not trying to say Bigham was trying to be one-sided, but it seems that way.

Moeller said the biggest question she had was what would have to go into a site plan and asked to see the samples and find out where a person would have to go to get a site plan. Bigham said eight items are listed in the ordinance as requirements for what should go into that site plan; the list of eight requirements is included in two sections, one dealing with Use Permitted on Review and this is a site plan approval, final decision at the Planning Commission level and it will only come to Council on an appeal basis. There did not seem to be any question about the requirement on the Use Permitted on Review, page two of the ordinance and page 46 of the agenda folder shows eight items listed and this is the minimum requirement of the site plan for a Use Permitted on Review. He said it was put into a numerical list so it would be easier for the reader to understand what was needed. Bigham said page six of the ordinance, page 50 of the agenda folder, has a list of the site plan requirements for a rezoning application recommended by the CPC.

Moeller asked where a citizen could get a site plan. Bigham said an applicant could do it himself if he could use a scale and had the information on the lot sizes, it is not mandatory that it be done by a professional surveyor, draftsman or engineer but that was also an option. He said he thought the majority of the site plans were done by the applicants. Jones said most of the applicants do them for Use Permitted on Review but they are usually done by professionals for new construction.

Moeller said if she had lots on "E" Avenue that were zoned for C-5 but she wanted to put in apartments in R-4 then she would have to bring all of this stuff in even though she owned the land, and the question should be what is the best use for the property, apartments or business. Bigham said if it is zoned C-5 for commercial, the zoning is cumulative and multi-family apartments are permitted within that zoning district. Moeller said she was using that for the sake of argument and did not want to dance around the issue. Bigham said site plans would not be required for agricultural or low density residential zones, but it would be required for R-3 or R-4 zones. Moeller said if she was requesting a rezoning from commercial to apartments, they would want to see all the fences, landscaping, parking places, and she may not be sure where the fences would go but the buildings will have to fit on the lots out of the easements and behind the lot lines. Moeller said she talked to a surveyor about it and was told it would cost \$1,000 or more to get what was needed. Bigham said that may be the case if a person hires a surveyor to do it, but it is not mandated that a surveyor do this plan.

Moeller asked if they would accept some lines drawn on the plat, and said she heard him mention that applicants have to build what they show and asked if they could not change their minds. Bigham said that was taken out of the ordinance. Moeller asked if they would accept anything. Bigham said they would like to have the information shown in Items 1-8, and if all of it was drawn to scale as an acceptable site plan, and they have examples to show that were not done by professionals. Moeller said she was concerned about overkill, that so much will be required of a

person that they will just say to forget it because they might spend \$1,000 and then stand a chance of being denied. Bigham said that would be a business decision of the applicant but in cases where someone is considering purchasing land, that is a normal step they go through as to can they use it for what they are buying it for, and the only way to do that is to develop that site plan. Moeller said the use of the land is the important thing and she did not want an overkill on the requirements.

Baxter referred to a sketch. Purcell said he did that and passed it out, and Moeller had also done one, but he heard the same horror stories that it would cost a lot of money to get a site plan that the Planning Commission wanted; it would have been helpful if all Council members had attended the CPC meeting in January where there was give and take discussion on both sides, Mr. Richards was there, as was Joe Warner and others from the Task Force at the Planning Commission. Purcell said one of the things he heard was that we were going to require, if we were not careful as a Council, that people spend \$500 to \$1,000 to get a site plan to get something rezoned. He said he went the next day to see what the minimum requirements were for a site plan, and the paper he passed out was the minimum requirement, so based on that he asked some of the CPC members if that was what they were talking about as far as a site plan, or if they wanted a professionally drawn site plan, and four members told him that was all they wanted. Purcell said every CPC member said they wanted to see a site plan before they would address rezoning, so what happens if we do not put it in the ordinance or make it a requirement to ask for a site plan but they go to CPC requesting rezoning and CPC will not address it until they have a site plan, and it would delay the applicant a month and we are concerned about delays. He said this is the minimum required and he wanted to make sure someone later on could not say they wanted something much more elaborate.

Baxter asked if this was an actual building that was approved. Purcell said no, it was a paper showing a building and he added everything else that was required under the ordinance and it took about 15 minutes to draw and that was all they were talking about as far as a site plan.

Devine said if it is so simple and that is all that is required, the proposal by the Task Force was to require an aerial view of the area to be rezoned and everything would be drawn into it that was required by the city; the Task Force wanted to delete 3, 5, 6, 7 and 8, which would have simplified it. Purcell said the paper covers all eight items. Devine said it does not show any bushes or existing shrubs but the ordinance would require that and he could not see the need for it; the Task Force suggested having an aerial view they could pick up that Bigham has access to and draw anything on it they need to as far as the boundaries, set backs and measurements, and that would simplify it but the ordinance as written in the agenda folder should not allow Purcell's drawing to be accepted as a site plan because it does not have items such as flood plain, location of existing or proposed fences or shrubs. Purcell said if there are no shrubs, you do not have to show any.

Devine said he did not know why information was needed as to what is existing on a lot when it would all be torn out and something new constructed. Purcell said maybe the Planning Commission members could explain. Devine said Purcell had spoken and he wanted to do so and Purcell apologized. Devine said he was trying to clarify that if this is so simple, why do you need all of this in here, and he thought the Planning Commission did a beautiful job but he thought sometimes the ordinance was not written for the Planning Commission but it was sold to them, and we have had a lot of other people who have looked at it who are in business that are builders, developers, contractors, and everybody else that deals with it everyday and just because they are telling you this little piece of paper will be easy to get does not apply in this because it is totally different from what they are asking for here. Devine said the Task Force said for the site plan to go to an aerial view and draw on the items needed, and if it was in the flood plain, that could be drawn on there also. He said he would yield the floor to Shanklin.

Shanklin said he was not going to beat his head against the wall because we are not listening; first of all, the Task Force is trying to cut the time it takes to get through the Planning and Council. He said CPC has the right to request any information they want by state statute; if they want a site plan, you can come up here if you like, but if you do not want to bring a site plan, they may not want to vote on it and then you would have to go through the process again and that may take six more weeks.

Shanklin said he, Bass, Devine and Hanna had served on the Task Force and attended the meetings and they voted yesterday on 5, 6, 7 and 8 and he guessed 3, but 3 says you do not have to have a site plan, and Item D says "rezoning amendment, the site plan; each application for rezoning to districts other than A-1, general agricultural, and so forth, R-2, two family dwellings, shall include submission of a site plan". He said he did not think the site plan was that big of a deal but if you are going to build on a vacant lot, the location of existing parking places and drive is not necessary; location of easements and set backs could be figured out, but the location of existing fences is not necessary. Anything that is on that lot should not be necessary except you need to know who owns the property and the limits of the property itself, and we all voted on that yesterday; we went to one not too long ago and you will see it in two weeks but if they would not have had a site plan, he doubted we would have received the challenges we did to voice their concerns over changing the zoning because they will have to have a revocable permit for the alley and moving in on a certain area, and with that site plan, that was the death nail of it because they had one there, and if they would not have, at some point in time, we would have been up in arms and people probably could not have done anything about it but right now we have. He said if that is being user unfriendly, if there is such a word, then maybe we are, but it boils down to a site plan, he had drawn everything that he had ever

built and it went through and you do not have to spend thousands of dollars and companies have them and can pull them out, but if the City Planning Commission has that authority, he thought there would be some mad people when they apply and do not tell the Planning Commission what they are going to want to know and it will just delay it that much further.

Shanklin said he could vote for taking out 5, 6, 7 and 8 because they agreed on that yesterday. Bass said 3 was included yesterday also. Shanklin said R-1, 2, 3 and 4, any spot zoning in a limited size would have to have a site plan but we never qualified what the limited size was, it was not a quarter section but a lot or two in a residential area that they would have to have a site plan, and he would stay with that and felt it was important to the people who live around it to know what is going in there, maybe not by name, but what will happen there.

Moeller said the drawing Purcell did, nor the other drawing, would be acceptable as the ordinance is written. She said the corner of the lot is in the flood plain. Moeller said "site plan" is a big word that fits a lot of things and you need to be specific and not have overkill, and hoped there would be flexibility and wanted to know what the Planning Commission was looking for, and some of the information would be needed when they get to the building permit. Bigham suggested the CPC chairman speak in that regard. Mayor Powell said he would open the public hearing. Bigham said to Councilman Devine, in no way did he want to make this lop-sided or not recognize the Task Force, the Mayor had already recognized them, this is a public hearing and he was sure they would speak on the issue.

PUBLIC HEARING OPENED.

Pat Henry, CPC Chairman, said the CPC has the greatest respect for the Mayor's Task Force and it had been their privilege to work with them for seven months and they had taught them a great deal, and there had been a lot of give and take. She said she was here to make the formal presentation for the City Planning Commission and maybe when she finished, and some of the members finished, Council would understand why they feel like a very simple site plan is important to them.

Henry said it is extremely unusual for the CPC to appear before the City Council and she would say that in her lifetime it is unprecedented; she served many years on LMAPC and serves on CPC and could never remember the Commission appearing before Council so she hoped Council understood that by seeing seven of the eight members present that they feel this is a very important issue. She said they take their job very seriously and in their evaluation of the codes, the very first thing they did was try to be clear as to exactly what the role of the Commission is in the so-called big picture; they believe their general mission is to make recommendations to Council, recommendations that support industrial and commercial development in Lawton, while at the same time taking into consideration the rights of surrounding property owners as well as the impact on the safety and the well-being of the general public. She said if that is not correct, they would like to someone to attend one of their meetings and enlighten them.

Henry said over the last two years and two months that the CPC has been in existence, they have recognized a number of what they perceived to be short falls in the existing code, especially in those areas being considered tonight. In July 2001 they studied possible solutions and began developing proposed changes to bring for Council consideration. She said they were asked to have the Mayor's Task Force review their proposals and they did that; in October they had a combined committee of CPC members and the Mayor's Task Force which held several meetings and the dialogue was very good. One of the issues on which there was a compromise was a time limitation for a Use Permitted on Review to be enacted, and an example is, a public hearing is held which is required for a Use Permitted on Review, we had a site plan and received comments from the developer and citizens who were interest, the Commission looked at traffic safety, impact on the surrounding neighborhood and recommended approval. Ten years later the project still had not materialized but by that time the surrounding area may have changed significantly and that particular use may no longer be compatible, so in that instance they asked for a reasonable time for the project to be started before it was looked at again; originally they proposed two years and compromised with the Mayor's Task Force by going to five years. She said that example was given so everyone will understand the give and take and the compromising that took place over these seven months.

Henry said the big issue and the one they were not able to resolve with the Mayor's Task Force was the recommendation that a site plan would be required for a rezoning request. This would not apply to A-1, A-2, R-1 and R-2. What they asked for absolutely does not require a blueprint, it is a simple scale drawing showing building size, location and use, parking spaces, driveways, property lines, easements, signs, flood zones and so forth. These are all things that are on the development check list. This does not have to be an architectural plan and it is not intended to be anything that would cost the developer thousands of dollars. Henry said what it will do, in their opinion, is help the developer to be sure his site plan will work on the property in question; it will help the people in your wards to better understand the proposals when public hearings are held, it will help the Planning Commission do a better job and they sincerely believe it will help the Council in reaching a final conclusion on the requests that come before them. Henry said she would emphasize one very important point which was brought up tonight, the City Planning Commission can, by statute, request the information it needs to formulate its recommendation and that includes requesting site plans. She said they have been requesting site plans for two

years; if it is has been a big problem, they have not heard about it. Henry said most of the time the questions can be answered by referencing the site plan; if there were not a site plan and the Commission had to ask for one to be submitted at the next meeting, that would slow up the process, delay the developer and they hated to do that.

Henry said the Council expects the CPC to forward a recommendation that has been thoroughly researched and this Commission feels a site plan is an essential tool for them to be able to do that. She said she personally cannot imagine a national or local developer investing in a site, even on a contingency basis, without making sure the site plan would work on the property that is being developed. The Planning Commission should know and has the right to know how the business or industry will integrate its traffic into the streets, where the buildings will be located, what type of activity is going to be conducted next to homes, the effect of noise, light, is there adequate water, sewer, street improvements, fire protection, all of those things; who that business or industry is makes absolutely no difference to them. The nine members of the City Planning Commission are appointed one from each ward and one at-large by the Mayor; they are business women and men, retailers, lawyers, bankers, real estate developers, professionals, entrepreneurs, and social workers. The future growth of this city is extremely important to each of them as individuals and to all of them as a group; they are in every sense of the word pro-business, but the terminology pro-business does not and should not preclude assuring compatibility with existing uses and providing safeguards and considerations for the surrounding neighborhoods and adjacent property owners. That is not an easy balancing act and no one knows that better than the Council. It requires not only a lot of soul searching, but a lot of information and study as well. She said she asked John Pereira, CPC member, to put together some examples of site plans that had been submitted to them with previous proposals and they had handouts and an overhead and when Council sees them they will understand why CPC felt a site plan was important. The last one on Fort Sill Boulevard and Ferris, there is no way the Commission could have made a determination about access in and out of the property or traffic without that simple site plan. You will see easily that some of the site plans are professionally drawn and some are certainly less than professional, and Purcell presented one and they all said it would have answered all of their questions.

Henry thanked the Mayor and Council for listening to their concerns and asked for approval of the proposed ordinances amending the sections under consideration tonight.

Mayor Powell asked if Henry said they had been reviewing site plans for two years. Henry said yes, they had requested from the applicant a simple site plan. Mayor Powell asked what they did prior to that time. Henry said they were not in existence; they had only been in existence two years and two months, and LMAPC reviewed them prior to that and in most instances LMAPC had a site plan. Henry said it had been her experience that anyone who requests rezoning, especially from residential to commercial, has a much better chance of getting their rezoning passed when the people in the neighborhood understand what will be there and it is not hidden from them.

Charles Wright, Mayor's Task Force, said when a site plan is submitted, it is not mandatory; if they submit a site plan, it is a fictitious thing; you are going to ask for a site plan that is nothing but someone's idea, it may not be anything other than "this is something I can do with this property"; it is not mandatory to follow through with this site plan when you go in for a building permit. He said you are asking for something that is a lie and it has been done over and over, and people in the audience can tell you they submitted site plans and got rezoned but did something else. Wright said they had been submitting site plans and were in favor of them but were not in favor having to show all the things that are existing on the property, such as a small piece of property with two houses and two garages, 26 trees, four shrubs, three fences, and you had to pay someone to measure all of that, you could do it yourself but you would have to have knowledge of what you were doing; there are no easements shown here, no setback lines or right of ways or width of street or paving, and all of those things are required. He said the site plans they have been doing over the years include the requirements shown in 1, 2 and 4, the legal description of the property, the property lines and the location of all easements, right of ways and setbacks. Wright said once the zoning takes place, the site plan has no other use, they got their zoning, now they can submit to the City, through the building permit process, anything that fits within that zoning, so asking for the site plan really has no meaning, it is just spending someone's money.

John Pereira, 218 Mimosa Lane, City Planning Commission member representing Ward Two, said Mr. Wright's comments were correct, the action of the developer is based on, to some degree, honesty with the Commission and City Council, because what they recommend eventually appears before Council. He said the Chairman asked him to present examples of site plans that had been submitted in the recent past and he tried to find those that were simple and those that were more elaborate. Pereira said if it is a corporation, such as Braum's or a Dollar General store, they have packages for set type of buildings, so they put their package on the dimensions of the lot. He said for individual lots and developers, those site plans seem to be much more simplistic, which are fine. He distributed handouts of the slides shown on the viewgraph.

Pereira said if someone requests a rezoning, they normally ask the Planning Department what is needed in a site plan and they usually get a development check list, and a copy of that was provided, and five or six items are shown and that is the kind of guidance they are getting right now as far as the site plan content is concerned, and that is just for information, that is what they are receiving today. He presented a site plan for the corner of 12th and B for a beauty shop, and the last page in the packet contains a hand drawn sketch which was submitted by Ruby

Patterson, applicant, and the Commission actually voted on that page and the only problem was the math did not add up and they could not tell how far the driveway was from the corner and it appeared to be very close but they approved the rezoning and later on the applicant presented another site plan because they asked her to clarify how far the driveway was to the corner and initially she said there may be other parking and she was kind enough to bring in another site plan after they had actually voted on the first one. Pereira said the first plan kind of showed what they needed, it was one building on the lot, there were no shrubs or anything except maybe one tree.

Pereira said he could only remember three requests that CPC had not recommended for approval, and presented a site plan of a facility on J Avenue. He said the site plan said it would be a funeral home and they were somewhat concerned about the parking and traffic flow, and a school and church are nearby. Pereira said the Lawton Public Schools looked at the site plan and expressed concern about the loading and unloading of children at the same time funerals were going on because it was to be a high use, tribal type funeral home, and they had concerns about safety of the kids. He said when they asked the applicant what was going in, it was not a funeral home but a 500 seat meeting hall, a training facility, and a day care, which was going to put a huge amount of traffic on a residential street. Pereira said they also had members of the surrounding area look at the site plan and voice their concern about the density of the uses.

Pereira presented the site plan done by the Salvation Army, which Council considered previously, and it pointed out concerns about how goods could be loaded and unloaded, and the first thought was to have the trucks back up down the street and go into a loading dock. He said without the site plan, the Commission or Salvation Army would not have realized the traffic problem that it would have created. He said the Planning Department worked with them and Council eventually got a request that could be approved, but this highlighted very early on in the development stage the problem that was not foreseen.

Pereira presented an example stating it was one of the more significant and sophisticated site plans that had been submitted; it was considered at the last CPC meeting and was for a Braum's Store that would replace the existing facility near Lawton High School. He said without the site plan they would not have known that the real entrance for the store would be on Euclid, the alley was to be used as the entry to the drive-in facility, and significant traffic problems would be created as a result. He said those living in the surrounding area could tell they did not want to see a Braum's put in that would take up an entire city block and public comments were received by the CPC for about an hour against the establishment of a facility of that size at that particular location. Pereira showed an aerial photograph of this location, stating it would not show where the main entrance would have been or how it would have gone into the alley. He said with a Use Permitted on Review they like to see the existing items, or if it is a modification or expansion of an existing building they like to see where the existing construction is; if it is an undeveloped lot, normally there is nothing there and in that case they do not want to see what will be torn down but what they want to see is what they plan to build. Pereira said none of the developers had expressed any heartburn about the site plans, no one had ever said it was an insurmountable obstacle to their development of the property.

Pereira said the instigators of this change were really the Planning Commission; as they became more sophisticated in the way they looked at these things and the better training they received, the code allowed people who did not even own the property to apply for a rezoning, you did not have to be the owner to sign for the rezoning and you did not have to have a power of attorney, so there were some glaring errors and once they saw those, they looked at the code in more detail. He said he was appointed when the Commission began in January 1999 and could remember only three recommendations to deny rezoning requests, and another is coming to Council on the Braum's. Pereira said they did one in Haywood's ward that was originally to be a laundromat, but it was in the middle of a residential area, it was spot zoning and it did not have the necessary parking and would have required parking on 17th, which is a busy street, and the funeral home on J was also recommended for disapproval. He said they look carefully at the site plans, which provide a forum to be able to ask additional questions of the developer. Pereira said a more detailed site plan may be needed for a building permit, but the public does not see the building permit.

Nick Richards, Chairman of the Mayor's Task Force on Codes, Policies and Procedures, said they had spent a lot of time debating this issue and he appreciated the Planning Commission and their willingness to work with them. He said Pereira has shown site plans that have been approved in the past, but they have not been done according to this proposed ordinance. He said the proposed ordinance contains some errors that makes it more restrictive and makes it harder to do business in this community, and while there are hundreds of homes and commercial properties vacant in this community, how can we even talk about something that is more restrictive when we are dying for growth. Richards said he did not think any of the people who elected the Mayor and Council are happy with those vacant homes or commercial properties, and they would not be happy if another restriction were placed upon our community.

Richards said there are times when progress is going on that it bumps up against a few individuals, but the thousands of people who go up and down our boulevards benefit from that progress, and so when it is time for progress to bump up against a couple of homes, and those people who own those homes get rewarded with extreme prices for that real estate, is it not time for progress to move on forward and be a growing and vibrant city

instead of one with hundreds of vacant homes and commercial properties.

Richards urged Council to accept the Task Force's changes to the proposed ordinance, take an aerial photograph that will show the site to be rezoned and the surrounding 300 foot area which will give a clearer picture of what is there than any of the site plans that were displayed. He said if the applicant gets approved for a rezoning, then he is ready to start spending money and proceeding with a project; it is wrong to require extreme expenditures before a person knows he is properly zoned to go forward.

Bill A. Williams, 3503 NW Ridgeroad Place, said his cell number is 695-1228 if anyone watching on TV would like to call him about some of the problems the staff of this city has caused him over the years in developing property, he would be glad to hear their call. He said he started buying land in Lawton in 1960 and has developed Hunter Hills, Part 1, Tomlin Addition on Cache Road, the 3-1/2 acres with a ditch running through it, and had spent a lot of time and money trying to make this a city of growth, and every once in a while he will dig up \$200,000 to \$300,000 or borrow it, and buy a piece of vacant ground or a place where the houses are run down and scrape them off and try to come up with an idea on how he could provide this city with some sales tax. He said he had volunteered his time, his money and his efforts in trying to provide revenue and growth for Lawton.

Williams said he was a prime example of what had been presented; in 1997 he has a plot plan the staff made him provide for the four or five houses at Sheridan and Oak, the houses were old and before he could get a rezoning, he had to spend \$500-\$600 on a plot plan to present them with a lie because when he got the rezoning, he did not know what he would build. He said he is working on another plan and has spent a lot more money; the site plan provided a way for him to satisfy a group of people whose money was not involved in the project. Williams said he has seen the proposal from the Task Force and it is sane; some of the ideas proposed by the staff are not. He recommended passing the Task Force's recommendation.

Shanklin said he remembers the example Williams gave and that site did not bother him because the houses were by themselves, it was already commercial to the south, and the only thing that could have been done was scrape off the houses and build something new, which Williams did. He said that is different from being in a residential area where homes are not run down or in spot zoning, and he could understand the lie that someone could come in and say they plan to build a little church and it is not going to be a church but that is what is in the zoning. Shanklin said he did not see where people would have a problem if they would be above-board in bringing a site plan and letting people around them know what is happening. Williams said you will just be telling them another lie. Shanklin said he would want to be able to tell them, if it is within their power, that what they say they are going to put there and you change it, when you come to get a building permit, then you are going to go through the process again if you are going to come up here and lie to us; if you are going to lie then we are going to play your game. Williams said he did not like to play the game. Shanklin said if you are lying, you are playing the game. Shanklin said he agreed what was required was excess. Williams said when he bought the 3-1/2 acres where Advanced Auto, Hollywood Video and Ryan's Steakhouse is located, he had no idea what he was going to have there, and a canal ran through it but he spent some money and about three or four years improving it.

Moeller said some developers buy and clear land, then put up a sign that they will build to suit. She asked what kind of site plan can be provided in that situation. Williams said you can't and he reviewed plans he had going on now and said it is a chance to take. Moeller asked how the problem could be solved. Williams said by doing what the Task Force asked for.

Mayor Powell said he wanted to clarify something with Mr. Wright, he thought he heard him say that a site plan was not mandatory after approved and you can build anything you want and no one is going to make you do what you said you were going to do. Wright agreed and said that was the example Williams just provided, a site plan was submitted showing a fast food restaurant on that property and the reason it was done was because they asked for a site plan so they put the heaviest use they could get on it, which would be a fast food restaurant, although he had never intended to put a fast food restaurant there, but he needed the rezoning. Wright said he is talking against all of this but he was the one Williams paid the money to. Wright said he got paid for the plot plan at 12th and B, as well as the one for the Salvation Army, but what we are asking for now is a lot more than what we have been doing, having to find all of the other things that are there, which have nothing to do with what is going to be done, but the point more than that is whatever they draw on that paper does not have anything to do with what is being done because once it is zoned to whatever category, anything in the code book that falls within that allowable zone can be put there and they are not held to the site plan they are turning in, that is the point, you are asking someone to spend money for something that is a speculative venture that they have no idea what is going to happen, but if they take the aerial photo, you could see if there were dilapidated buildings or junk cars or whatever is in the neighborhood and if someone wants C-4, you can see what all is allowed in C-4 and use that to base your opinion on what the proper zone would be. He said you can put the property lines and easements on the aerial photo, but saying a street entrance will be a certain place and 26 cars can park here, when it is then rezoned, they might want to park 52 cars there, and if it fits within that zoning and when they apply for their permit through the building permit process, if it fits within that zoning, they can get a permit.

Devine said the site plan at the time of rezoning may not have anything to do with what is actually built at the

finish. Wright said they are not bound to it, no. Devine said when they apply for a building permit, the site plan must be followed as to what goes on the lot and how it is built. Wright agreed and said all drainage calculations have to be done with the building permit also, which are affected by the amount of asphalt or concrete that is put down, and that is when all of this is reviewed, but to do it at the beginning does not make sense because there is nothing binding to hold them to it.

Jim Ferguson, CPC member representing Ward One, said he served on the subcommittee that met with the Task Force. He said he is relocating from Lawton but it is not because of the vacant houses or businesses but only because his corporate headquarters requires it, but after 19 years here he wanted to be sure he did what was right for the City of Lawton as he departed. Ferguson said both groups gave of their volunteer time to meet and he learned a lot from them and from the Planning Department, and as they have learned, it has in turn caused some of this request for more information so they can do their job better, making recommendations to Council so they maybe do not have to do as much research seeking the same information. He said whatever decision is made, Council should know that its volunteer Planning Commission members are even better prepared to advise them in the future.

Ferguson said since last July their focus has been on process, and statutory requirements must be met and a process adopted that is in the best interest of the community and the citizens, and minimizes the time to get recommendations to Council so applicants do not have to wait forever. He said they started with a thick document, compromises were made by all entities and it is now about half the size it was. Ferguson said they felt they needed the site plan, and they were not asking people to spend money to be able to provide that information. He said the information in the site plan has helped the applicant because it has been used to overturn some recommendations of the Planning Department and speed up the process of rezoning.

Tom Linville, 1416 SE Hillcrest, CPC member representing Ward 4, said he has been on the Commission for two years and two months and they have had two large projects, this and the 2025 Land Use Plan. He said Lawton has a large amount of commercial real estate already zoned C-4 and C-5, and when he sees someone wanting to come into a residential area, his personal view is that they have all of this other property that is already zoned for use but they want to come to a residential area so he holds them to a higher standard because he lives in a neighborhood and wants to know what is going on there. Linville said the residents vote for their representatives and have the right to know what is going on in their neighborhood; if it is that important, put it on land that is already zoned for that purpose. He said he was pretty much opposed to some of the rezonings and that they should be held to a higher standard and provide the information he could see and use to answer phone calls from citizens about what is going on, and that is all they are asking for, what is going on in the neighborhood, and why are they doing it in my neighborhood when we have all this other land and that is a question he often asks himself, and he knows why, putting a commercial area in the middle of a neighborhood means customers will have to drive by them to get somewhere else. He said it is not good for the fabric of the neighborhood to allow that to happen repeatedly, and that is the way he looked at it as a member of the City Planning Commission.

Hanna thanked both groups for all the work they have done. He said his intent earlier was not to berate Bigham but to get this going here. Hanna said he had heard both sides of the story and that the Task Force would accept the site plans with the changes; he asked if the Planning Commission would go along with the changes and still get a site plan. He asked if a compromise could be worked out and what could we agree would fit all of our needs so we can progress forward on this and get over this hurdle.

Henry said she was not sure she had the authority to speak for the Planning Commission but it would be her personal opinion that if all the Commission gets is an aerial photo that does not show street access and the alley, like at Sheridan and Ferris, that the Commission would not have the information it needed to be able to make a recommendation to Council. She said if Council desires to select the aerial view as the requirement, then it is her opinion that when they reach the Planning Commission, if they do not have enough information that they would be asked for it, and perhaps in many instances it would be enough but she could not say how they might view each instance and how they might vote in that case.

Mayor Powell said Mr. Vincent had visited with him about something he would like to bring to the floor at this time and he wanted to keep the public hearing open a while longer.

Vincent said one of the things they look at when they go to court on rezoning requests or changes in the Land Use Plan is that certain legal requirements must be met to be able to prove the case in court, and they are looking at two different issues, some are just rezonings in conformance with the current Land Use Plan and some are rezonings and changes to the Land Use Plan. He said the bodies might want to consider a compromise and have a more simple site plan requirement for only rezonings, and for rezonings involving changes in the Land Use Plan the site plan could require items 1-8. He said he did not know if that could be accomplished on the floor tonight or if the groups would like to get back together, but that could accomplish the purposes of both groups and it would meet the legal requirements.

Henry said that sounded attractive to her and suggested the groups be allowed to review it, and that it appeared

that it was the only issue before them.

Mayor Powell agreed the site plan was the only area of contention, and Vincent's suggestion was when there is a Land Use Plan change and rezoning that the formal site plan be called for, but if it is just a rezoning matter, you would provide the legal description, exterior property lines, location of easements, right of ways and setbacks, and location of existing or proposed parking places and drive openings.

Richards said he was sure the Task Force would like to look at Vincent's suggestion. Purcell said it could be tabled for both groups to review.

PUBLIC HEARING CLOSED.

Mayor Powell asked if the items in agreement by both groups and the Council could be acted on tonight and then take separate action on the site plan only at some point in the future. Vincent said they could approve the ordinance with the exception of Section 18-114 and that item could be tabled.

Vincent said page five shows a site plan for rezoning and there is another section requiring a site plan for Use Permitted on Review but the only discussion seems to be the one for the rezoning in Section 18-114.

MOVED by Purcell, SECOND by Haywood, to approve the ordinance as presented with the exception of Section 18-1-114 and table that section until the two sides can meet and come back with another recommendation to the Council, waive reading of the ordinance, read the title only.

Shanklin asked if he could make a substitute motion or if the motion on the floor was to table. Purcell said it was to approve everything except that section and to table that one section. Shanklin said the CPC can request any additional information they want, and several Council members had attended the Task Force meetings on several occasions.

SUBSTITUTE MOTION by Shanklin, SECOND by Baxter, to delete 3, 5, 6, 7 and 8 of that section from the site plan and to adopt the ordinance.

Shanklin said it will work itself out because applicants will eventually understand that they are going to have to have a site plan because the CPC will demand it. Baxter asked if Shanklin wanted to keep items 1, 2 and 4 and Shanklin said yes. Devine said that will require a site plan. Shanklin said you do not have to have a site plan. Devine disagreed. Shanklin said it shall be accompanied by a site plan but keep only 1, 2 and 4, and delete items 3, 5, 6, 7 and 8 on the site plan.

Purcell said if that is deleted and they only have to bring in a couple of things to go to the Planning Commission, and Planning Commission wants all of the items, the applicants will be delayed for at least a month. Shanklin said that was where they would change it again. Purcell said that would be the worst of all worlds, we are not trying to delay it for an extra month because we have already heard the Planning Commission. Shanklin said we do not know that they are not going to present a site plan and maybe the applicants will, but that was why he and other members sat through Task Force meetings, that is what they want and the CPC understands the motion.

Mayor Powell said there is a primary motion with a second, and a substitute motion to delete 3, 5, 6, 7 and 8. Haywood asked if that was acceptable to Mrs. Henry and the response was not audible. Mayor Powell asked for reading of the title of Ordinance No. 02-8, which was done by the City Attorney as follows:

(Title) Ordinance No. 02-8

An ordinance related to planning and zoning amending Section 18-113 modifying the procedure for uses permitted on review and Section 18-114 (as proposed amendment by Mr. Shanklin in his motion) modifying the procedure for amendments to the land use plan and zoning districts, Chapter 18, Lawton City Code, 1995, and providing for severability.

VOTE ON SUBSTITUTE MOTION: AYE: *Haywood, Baxter, Bass, Hanna, Devine, Shanklin, Moeller. NAY: Purcell. MOTION CARRIED. (*Note: Haywood passed on initial roll call)

Upon motion, second and roll call vote, the meeting recessed from 8:25 p.m. to 8:35 p.m. with roll call reflecting all members present upon reconvening.

Mayor Powell said he had been asked to consider Item 30 at this time.

30. Consider waiving Council Rules of Procedure, and if waived, consider a resolution to remove traffic control devices at NW 36th and Arlington. Exhibits: 11/15/01 Traffic Commission Minutes Excerpt; Resolution No. 02-____.

Devine said Dr. Drummond asked him to bring this back as he opposes the signs Council authorized. Devine said he did not support taking the signs down and the residents feels they have had good results and the signs have slowed down the traffic considerably. Devine said there are some deaf children living in the area and it would be an asset to leave the signs up.

MOVED by Devine, SECOND by Purcell, to waive the Council Rules of Procedure. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.

Devine said Dr. Drummond and Mr. and Mrs. Hillis are present to address the issue.

Mayor Powell asked for public input from those who wish to speak in this regard.

Clay Hillis, 3515 NW Arlington, said he lives on the corner of the intersection being discussed. He said the stop signs have made an improvement to the safety of the area, they have slowed the traffic, which is a problem primarily along Arlington, not so much along 36th Street. Hillis said his wife had checked with the neighbors and found that especially those with young children, elementary age on down, support the stop signs, specifically Bill Drewry who has a two-year old child and the Meservy's who have three young children. Hillis said nothing new has occurred to cause Council to change its mind from its previous actions and asked that the stop signs remain.

David Drummond, 137 NW 36th Street, said he lives on one of the streets directly affected by this and said he understood the safety concerns and he was not opposed to slowing down the traffic. He said on November 27 the Council considered the stop signs and they were installed some time in December 2001; shortly after they were installed apparently they were vandalized and he had heard that there had been some thought that he may have taken them down or paid someone to take them down and if that issue is on the floor somewhere he would like to categorically deny that. Drummond said there was no way he would involve himself in something of that nature.

Drummond said he uses the intersection more than once a day, has lived in the neighborhood since 1991 and has not seen a traffic pattern that indicated the use of three-way stop signs at this intersection. He said he had also spoken with numerous neighborhood residents who were unhappy with the signs and did not see a need for them. Drummond said he is here to voice their concerns also, and he did not want to go into some of the people he talked with because no one wanted to get into a neighborhood war. He said when the signs went up he contacted Dan Tucker, whose office he was told was involved in this matter, and he told him that a traffic engineer did a study which concluded that the conditions of the intersection did not, by the standards of Uniform Traffic rules, warrant three-way stop signs and that was reported to the Traffic Commission, which recommended the signs not be installed. He said Larry Wolcott informed him that a field review was done at this intersection, studying the sight distance, accident rate and traffic and nothing indicated a need for a three-way stop and he said it was unusual to put the sign up where it was.

Drummond said the signs were not recommended by studies so why were they placed. He said you hear in the news that residents request traffic control devices and the Council will say no because it is not recommended or supported by traffic studies. He asked what the next person can be told presenting such a request. Drummond said the response is usually that the traffic study may show there are not enough fatalities, there are not enough vehicular collisions, there is not enough property damage, the traffic study does not support doing it so the request is denied, but they will be able to point to this and say, this study said it was not indicated but it was done anyway, why is this intersection different from mine.

Drummond said there are many more intersections on this particular road that could warrant such attention; none of them have stop signs, several have yield signs but could use stop signs. He asked why this particular intersection justified the stop signs.

Drummond said on November 27, Devine indicated there were skid marks in someone's yard from going around a corner too quickly and a police report indicated that excessive speed was involved. He said enforcement of the speed limit would be the way to stop this, not stop signs. Drummond said he had driven this cul de sac many times and had yet to see tire marks in anyone's drive or yard. He said the thought of speed bumps was brought up at that meeting, and someone said we are not going to do that in Lawton for a long time and he wanted to know why not, if the idea was to slow down traffic he did not think anyone would be opposed to speed bumps in that area and he would not but he was opposed to the stop signs.

Drummond said he had heard mention of deaf children, and he was not saying to not slow down for deaf children. He said the deaf children signs are on 35th Street, they have been up for five to seven years, they are not on 36th or on Arlington, so he would assume the children live on 35th Street, and the intersection of 35th and Arlington could use a four-way stop to slow traffic down and make it safer; there have been numerous complaints of people cutting between Gore and Cache using 35th as a main artery when they should not, and if there is a place that needs a four-way stop, it is 35th and Arlington. He said when he spoke with the traffic group he found that when someone requests a deaf child sign, it goes up but there is not always a follow through so we have no idea if the people who requested them still live in the area, and this can cause the signs to lose their importance because

people will know they have been up for ten years and think the child may not still live there. He recommended follow up be done when placing this type of sign so they can remain as important as they are supposed to be.

Drummond said he was not the only one who had questioned the decision to put the signs up; on February 1 the Lawton Constitution ran a column, a story entitled "City Commission votes to install No Parking Signs", and it said, "in other business, commissioners briefly debated their role as a recommending body to the council, and he assumed they were talking about the Traffic Commissioners, Commissioners said they were concerned about Council actions on traffic-related issues that by-pass the Traffic Commission. Commission Chairman said he had discussed these concerns with Mayor Powell." Mayor Powell said the Chairman had not discussed those concerns with him and he received a call of apology the next day. Drummond continued saying "the Traffic Commission said it isn't the first board to question its role and Council's actions that appear to by-pass members. The Land & Lake Commission addressed the same concern with Council last year. Commissioners pointed to a specific action Thursday which some say politics played a role in the Council decision to install stop signs at the T intersection at NW 36th and Arlington. City Engineer said the signs were not warranted. The Traffic Commission agreed. Council members, agreeing with residential concerns, overruled the Commission and voted to install the stop signs. The decision was one of three Commission recommendations overturned that night."

Drummond said if we have a Traffic Commission and they make the recommendations, why are they being overturned, and this is a small example of it but someone will wave this around and say it was done in this case, it should be done somewhere else and the statutes should be applied equally. He said the reasons talked about for the signs were to slow down the traffic, especially from Memorial Hospital, and at the November 27 meeting it was said that these could be temporary, but there was no provision for how temporary they were and whether they would be taken down when construction ceases. Drummond said if the idea is to slow down traffic on Arlington, there are four other intersections between where the hospital construction is located and this intersection that are T intersections that do not have so much as a yield sign on them. He said his question was why this intersection. Mayor Powell said he thought Drummond had made his point very well and that he would close the public input portion if no one else desired to speak; there was no one else.

MOVED by Devine, SECOND by Baxter, that the previous resolution not be rescinded. AYE: Devine, Purcell, Shanklin, Baxter, Bass. NAY: Moeller. ABSTAIN: *Haywood, Hanna. MOTION CARRIED. (Note: Haywood initially voted yes and changed his vote to abstain prior to result of the vote being announced by the Mayor. Haywood noted he was absent when this was initially considered.)

25. Hold public hearings and adopt resolutions declaring the structures at: 1213 SW Summit Avenue, 1215 SW Summit Avenue, 1606 NW Columbia Avenue and 2403 SW A Avenue to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety; authorize Neighborhood Services to solicit bids to raze and remove structures, if appropriate. Exhibits: Resolution Nos. 02-____, 02-____, 02-____ and 02-____.

1213 SW Summit Avenue, Title Holder: Booker T. Alberty, Jr.:

Angie Alltizer, Neighborhood Services, said a resolution for condemnation was passed in May 2001 but it did not include provisions for the City Attorney to pursue the matter in District Court so it is returned. She said one of the structures was demolished but the debris was not removed, and that is the extent of the problem at this address. Baxter asked who did the demolition. Alltizer said the owners contracted with Eddie Barbee to demolish the structure following Council's passage of the resolution last May; Barbee demolished the structure on 1215 Summit on the northwest corner where he started parking trailers and he attempted demolition on the structure on the northeast corner of the property, which is on 1213 Summit and did not remove the rubble.

Shanklin asked what the owner says now. Alltizer said she had not been contacted but understood a representative was present tonight and it might be easier to discuss 1213 and 1215 Summit together because they are contiguous and contained by a single fence and owned by two brothers. Haywood said they are owned by different people, although they are brothers.

PUBLIC HEARING OPENED.

Lewis Rayl, 5701 SE 90th Street, Lawton, said he represents Rayl Finance which holds a mortgage on 1213 and 1215 Summit, and they are owned by Clifford and Booker Alberty. He said he had not followed their account closely although they had held a mortgage on the properties for years, even when it was owned by the Alberty's parents. Rayl said he was not aware the situation had eroded into this, but the last he heard was when they received a notice in May and they thought it was resolved by demolishing some out-structures on the north side of the property but that the house and two other buildings would remain and they did not object to demolition of the two dilapidated outbuildings.

Rayl said the Alberty's apparently contracted with Eddie Barbee and they are now out of town, one is in Africa and the other is in Oklahoma City and has had a stroke. He said he has an interest in the property and requested a time

extension to see if he could resolve the problem.

Haywood asked how much time was being requested and Rayl said enough time to review and assess the situation and asked if six months would be too long and response was yes. Rayl asked how much he could get. Shanklin asked if Rayl saw any way that if he took it back that he could bring it to code. Rayl said he did not know, he had not been out there lately and had not seen the photographs. Shanklin said it could never be brought to code.

Clarence Williams said he brought this to Mr. Rayl's attention this afternoon, and he knew what he said about the Alberty's was true. He said there is one house that could be remodeled and others could be torn down. Williams said this was the same thing he had requested of Council two years ago, the opportunity to tear down a house and the Mayor told him to tear it down and he got a permit from the Council for six months to tear it down or remodel it, and he worked with staff, tore it down, and the City Manager and Alltizer knew what he was talking about. He said they were asking the Council to use that provision on this piece of property because it will work.

Haywood asked which house Williams was talking about. Williams said one house could be remodeled and he recommended the other two be torn down.

PUBLIC HEARING CLOSED.

Shanklin suggested this be left on demolition and they can request a remodeling permit, a demolition permit or be taken to court, and the applicants could decide which course of action to pursue in the next two weeks. Shanklin said they could not be brought to code for a reasonable cost.

Bass asked how much money it would take to bring the houses up to code. Alltizer said she had not been able to do an inspection of the main structure which is on the southwest corner of 1215 Summit, the two story structure, and she was not sure what it would cost to remodel it but the inspectors could see if they could get inside. She said an interior inspection would also be needed on the other structures. Alltizer said notice was sent to Rayl Finance in May and at that time Mr. Rayl (father) came to the City Clerk's Office and said he had no interest in this property and when the County records were re-checked for this hearing they did not find a mortgage on this, and she had discussed this with Lewis Rayl and it may have been a mistake at the County, and this was the first time he had been made aware of this situation

MOVED by Purcell, SECOND by Hanna, to approve this resolution and we then give them the opportunity to remodel it or tear it down.

Devine asked the City Attorney to explain what would happen to Mr. Rayl. Vincent said under the code provisions that were recently passed, and this resolution goes along with those, the owner or interested parties have 15 days to pull a demolition permit or 15 days to get a remodel permit; they have 30 days to complete 75% of the remodel and a maximum total of 90 days to finish or we go to court.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Baxter, Bass, Hanna, Devine. NAY: Haywood. MOTION CARRIED.

(Title) Resolution No. 02-30

A resolution declaring a certain structure a dilapidated public nuisance, detrimental to the health, benefit and welfare of the community; ordering the dilapidated structure be brought to habitable standards or demolished and removed; and authorizing the City Attorney to initiate legal action in Comanche county District Court to abate such nuisance.

1215 SW Summit Avenue, Title Holder: Clifford Alberty:

Mayor Powell said this had been mentioned with the previous item.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Clarence Williams, 1817 Jefferson, said his brother was in the security business and had authorized him to secure this property.

MOVED by Purcell, SECOND by Shanklin, to adopt the resolution. AYE: Shanklin, Moeller, Baxter, Bass, Hanna, Devine, Purcell. NAY: Haywood. MOTION CARRIED.

(Title) Resolution No. 02-31

A resolution declaring a certain structure a dilapidated public nuisance, detrimental to the health, benefit and welfare of the community; ordering the dilapidated structure be brought to habitable standards or demolished and removed; and authorizing the City Attorney to initiate legal action in Comanche county District Court to abate such nuisance.

1606 NW Columbia Avenue, Title Holder: Christopher Mason Solid; Mortgage Holders: International Fidelity & Ins Co; Joe Cook & Action Realty

Alltizer said this structure sustained significant damage from a fire on August 2, 2001. She said there had been no contact from the property owner; the green card was returned by the finance company but there has been no contact beyond that. Alltizer said the structure is a blight on the community and a hazard to the area because it is unsecured, and she asked that the resolution be amended and the owners not be given a chance to remodel because there has been a lot of public pressure asking that action be taken.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Baxter, to adopt the resolution as amended that it cannot be remodeled. AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

(Title) Resolution No. 02-32

A resolution declaring a certain structure a dilapidated public nuisance, detrimental to the health, benefit and welfare of the community; ordering the dilapidated structure be demolished and removed; and authorizing the City Attorney to initiate legal action in Comanche county District Court to abate such nuisance.

2403 SW A Avenue, Title Holder: James J. Ferguson; Mortgage Holder: Fort Sill National Bank:

Alltizer said this structure was damaged by fire; she and Fire Marshall Barfield went through the structure about a week ago and he felt that while it was a hazard that it could potentially be remodeled and the property owner is present. She said the owner did secure it after receiving notice.

PUBLIC HEARING OPENED.

James Ferguson said he did live at 2403 A but now lives at 715 NW Dearborn. He said he plans on tearing the roof off and putting on a new one but needed some time to do that; half of the roof was burnt off, part is still there and he did not want to tear it off until the weather improved so the inside would not be ruined.

Mayor Powell asked if the house was made of concrete block and Ferguson said yes, it is stucco and concrete block with wood floors and it is an old house. Mayor Powell asked about the interior. Ferguson said it is sheet rocked and he had remodeled it and had lived there for 13 years. Mayor Powell asked if the interior walls were damaged other than by smoke. Ferguson said they are smoked up. Mayor Powell asked about the plate on the roof. Ferguson said he had a couple of contractors look at it and he planned to personally tear it off and let them put the roof on, but the rafters all have to be replaced on one end but he was going to tear it all off and put on a whole new roof but wanted to wait until April or May when the weather got better, and someone had kicked the door in and he had fixed that.

Shanklin asked when the fire happened. Ferguson said two months ago and he lived in the house when it happened, although he was not home.

Devine said he had advised Ferguson to speak with Tucker. Ferguson said he tried but Tucker was not in today. Devine said this is in his ward and he would like to see Ferguson have the opportunity to get a remodeling permit so he would offer a motion to deny this and take it off the list, or at least let him get a permit. Shanklin said we can leave it on the resolution and he will have an opportunity to get a building permit and Council can adjust that permit, but if you take it off and the owner does not do what he said, it will be back again and that was the reason changes had been made. Ferguson said if it needed to be torn down, he would do so but wanted to repair it. Devine said Shanklin's comments were the same as were given to the other gentleman that you can apply for a building permit within a certain time and you have to make improvements and you can come back when the building permit runs out and apply for an extension but you have to do some work, you cannot get a building permit and just let it sit there. Devine said he would withdraw his motion so Ferguson could get his permit and get started. Haywood said it was the same thing that was done on the others.

MOVED by Devine, to adopt the resolution. (withdrawn below)

Ferguson said he did not understand what that meant. Mayor Powell said the City Attorney explained it previously regarding the time allowed to pick up the building permit. Ferguson said he picked up the paperwork and would have it completed and turned in within a day or two. Shanklin said we will look at what work has been done in 30 days.

Baker said if Council passes the resolution, Ferguson will have 15 days to get the building permit but he must get 75% of the work done within 30 days. Ferguson said he did not think he would be able to get that much done in that length of time; it will be cold, it is raining and he did not want to tear off the roof because the cabinets and

everything in it are just fine and if he pulled the roof off and it rains, it will ruin everything in the house. Baker said that was the resolution before Council and he wanted to make sure Ferguson understood it.

Shanklin asked if the Council had the authority to extend the time frame. Vincent said not under the new ordinance. Ferguson said the roof is not off of it, the roof is still there. Vincent said under the new ordinance they have 30 days to get 75% done, and then an additional 30 days if they meet that 75% to get more done and then another 30 days to finish it. Devine said he wanted to withdraw the motion because he did not want to cut him that short.

MOVED by Devine, SECOND by Purcell, to table it for 120 days. AYE: Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

Shanklin said the reason this was done differently was because this was just a two month old fire, not something that has been there for six months or a year and a half that we have tried to get along with and people have ignored it.

26. Consider an appeal on the denial of a building permit and special flood hazard development permit for an enclosure of an existing patio located at 4107 NW Currell Drive submitted by James Hunkins. Exhibits: Letter of Denial; FIRM Map; Criteria for Granting Appeal; Letter of Appeal; Statement by Alan Hendrick; Order.

Bigham presented a viewgraph showing the flood plain area as identified on the FEMA flood insurance rate maps; a green line showing the flood way and another area in the flood fringe. The flood fringe area can be developed with certain restrictions, for example, the structure must be built one foot above the base flood elevation. The code, which is parallel to the federal regulations, states there shall be no new developments or substantial improvements or new construction within the flood way; that is referenced as Section 19A242B of the Lawton City Code. Section 19A231 establishes the right to appeal when it is alleged there was an error in any requirement, interpretation, decision, or determination; another section establishes criteria that the flood appeal board, the Council, has to use in considering the granting of an appeal. This criteria is set out in exhibit three of the packet.

Mayor Powell asked that the Council turn to Page 105 of the agenda folder. Shanklin asked what Bigham was trying to tell the Council. Bigham said he was trying to present the facts of the case for the record that this is a flood appeal and we have to go through this procedure in order to get down to the order that he was about to mention that the Mayor identified on Page 105.

Purcell said he thought there were federal and local laws against building houses or anything in the flood way and if this house was built prior to those regulations. Bigham said this is a pre-FIRM structure, meaning it was built before we were in the national flood insurance program.

Moeller said she would not consider this a new construction because the foundation is there, he is not adding on or building any new construction. Bigham said by definition of federal regulations this is new construction, this is creating new habitable space of this dwelling unit.

Baxter said a letter from Robert B. Hendrick is shown at Page 104 saying he desires to enclose the patio and asked if that is what we are talking about as new construction. Bigham said yes. Baxter asked if the applicant can sue the City for allowing him to do this and it later floods. Vincent said no.

Devine said they issued permits to build six foot stockade fences all through the area and that would seem to divert the water much more than an enclosed patio. He said he did not understand why this has went as far as it has, and in talking with Bigham, he could understand there are guidelines to go by and he had tried on several occasions and had some pretty harsh words over this. Devine said the applicant has a letter from an engineer saying it would not hamper the floodway and he did not understand why the rest was needed.

Mayor Powell said we are in a position where we do have to have a hearing, the Council is the appeal board and we have got to have a hearing to satisfy those people that we answer to; that is not to say that we will deny this at all, there are certain things we must go through. He said he met with Bigham on it this morning and we must have an affirmative on these questions on Page 105. Shanklin asked if six separate roll calls are required and asked when staff did that to them. Vincent said that is required by the federal regulations and Shanklin asked since when. Vincent said on a flood plain appeal, in order for the Council to grant the variance as the appeal board, they have to affirmatively vote individually on each of the items. Shanklin asked when they had ever done that before. Mayor Powell said never. Shanklin said he knew that. Mayor Powell said about two months ago the Stormwater Drainage Appeal Board was done away with and it probably will not happen once every 80 years.

Mayor Powell said Items A, B, C and D can be acted on at one time and Bigham is completely satisfied with those items. Bass asked if there was a chance the City will have to buy this house through FEMA like we had to buy the others. Bigham said not unless it is for a project. Bass asked if there would be a chance the City will have to buy

this house. Bigham said not in the foreseeable future. Mayor Powell said it would have nothing to do with this action tonight and Bigham agreed.

Moeller asked that the heading on Item 3 be read before they go on to A, B, C and D. Mayor Powell said Item 3 says: "Decision of City Council, note, if any one of the following questions receives an unfavorable, which means a no vote, the request for a variance must be denied. If approved, conditions may be imposed to insure that the public interest will be protected." Mayor Powell said under F you have the ability to put conditions on this.

Moeller said she went out and looked at the house and the patio, and the house itself is probably two feet or more above the street level and it is three rows of houses away from the creek. She said a block and a half of homes would be flooded before it would ever get to this house. Moeller said she has seen work done by this company before, the foundation and roof are already there and it will be enclosed with glass panels, that's all, and the company's work is top quality.

Mayor Powell said we are making sure the record will show that the appeal process was done properly.

Purcell said one statement is if any question receives a no vote and asked if it meant a majority of no votes. Vincent said if a question received five no votes, that is what it is talking about.

Mayor Powell asked Bigham to read for the record. Bigham said on Question A, will the request, if granted, result in no increase in the flood levels during the base flood discharge. He said the City received a statement from Alan Hendrick, professional engineer, in the packet on Page 104 saying there will be no inverse impact on the base flood elevation for this area. Bigham said Question 2 is will the structure be built no greater than two feet below the base flood elevation, and said the information provided by the appellant is that the finished floor elevation will not be greater than two feet below so that has been satisfied. Bigham said Question C is has the appellant been given written notice that the granting of a variance to construct the lowest floor elevation below the base flood elevation would cause the cost of flood insurance to the appellant to increase commensurate with the increased risk resulting from reduced lowest flood elevation. Bigham said the appellant was provided a certified letter giving him this information and hopefully he has contacted his insurance agent and provided that information that may impact his flood rates. Bigham said on D, if the structure has historical character or qualifies under historical criteria of the state, is the variance the minimum necessity to preserve the historical character and design of the structure. He said the structure was built in 1973 and he did not consider it to be historical in character.

Mayor Powell said Items A - D have been covered and asked that Council act on all of those and requested a motion to vote in the affirmative with no exceptions and if anyone disagreed with that, they needed to know. Vincent said a motion was not needed, only a roll call on a vote on A, B, C and D, and those four can be voted on at the same time and we will just ask each member to vote yes, no or abstain on all four questions at the same time.

Vincent said on Questions A, B, C and D on the flood plain appeal, how do you vote, either yes, no or abstain and the Clerk will call the roll. Shanklin asked if a yes vote meant you agreed to the appeal. Vincent said you are agreeing he has provided sufficient information to satisfy that question.

ROLL CALL ON QUESTIONS A, B, C AND D: AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None.

Mayor Powell said E is "does the variance meet all the following: a showing of good and sufficient cause". Purcell asked if someone could explain what is now being done. Bigham said a similar type motion could be made as Vincent suggested. Vincent said under question E, does the variance meet all of the following requirements, and Council has those four in front of them and a yes would say he has met those requirements and a no would be that he has not.

ROLL CALL ON FOUR PARTS OF QUESTION E: AYE: AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None.

Vincent said on Question F, does the variance contain all conditions deemed necessary to promote the public health, safety and general welfare and to minimize the public and private loss due to flood conditions throughout the City. He said this is the portion where Council can impose conditions if it so desires; a yes vote as it is written would mean that there are no conditions other than the insurance. Purcell asked if this is approved, will it have an impact on the rating under the flood insurance since all the correct procedures have been followed. Bigham said yes, with the record correctly done, FEMA cannot come back on the City and say you did not do this right and a penalty would be assessed, but if it is done properly, this is in accordance with FEMA regulations. Mayor Powell said that is exactly the reason this has to be done in this manner, to satisfy those needs. Bigham said he must file a bi-annual report with FEMA and any time a variance is done, this record must be provided to them that it was properly done.

ROLL CALL ON QUESTION F: AYE: AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY:

None.

Mayor Powell said the variance is granted. Bigham asked if the applicant wished to speak and he did not. Shanklin asked what would have happened if he would not have come in and asked for a building permit and went ahead and did it, who would have known anything about it. Bigham said it would have been a code violation. Shanklin said you would not have known about it. Bigham said this issue is in the flood plain, we could be penalized by FEMA. Shanklin said if a person said he took those out three years ago and was deciding to put them back, how would you prove he did not; that is what makes people circumvent our codes.

27. Consider an ordinance relating to charitable car washes, repealing Sections 7-2601, 7-2602 and 7-2603, Article 26, Chapter 7, Lawton City Code, 1995, reserving the section numbers for further uses, enacting a new ordinance regulating charitable car washes for the purpose of raising funds, providing for penalty, codification and severability. Exhibits: Ordinance No. 02-____.

Baxter said he brought this item back, a Lieutenant Colonel in 1995 came to Council asking for a revision on the charitable car wash issue to be able to have more for charitable organizations but he got railroaded because Council decided at that time that there would not be any charitable car washes. He said he promised the youth of the City when he ran for the Ward 8 Council seat that he would support them in every endeavor and this was one way he was trying to show he does support the youth; there are a lot of sports organizations, booster clubs, and churches that want to raise money to go to camp, battalions at Fort Sill that are trying to raise money through charitable car washes but they are not allowed to do that. Baxter said a code provision was rewritten in 1997 again that allows them to do that providing they do it at a car wash bay and have the owner's permission to do it, and that is a little bit restrictive, the Eisenhower High School cheerleaders need to be allowed to have a car wash at that high school; the First Baptist Church people should be allowed to have a car wash in their parking lot to raise money for those kids to go to Falls Creek, and that was why he brought the item back.

Purcell said he was on the Council when this was passed and that he was a friend of the person who spoke in this regard in 1995, however, it was not done off the cuff, there were many meetings and input was received from the groups that wanted to do it. He said input was received from folks who were concerned about the EPA problem of water running down the street, and the second thing was a safety issue because kids were in the medians and streets trying to wave down the cars. Purcell said citizens were complaining about driving through the water in the streets, and it was on almost every corner on a Saturday or Sunday. He said input was also received from the store owners who were on all those corners; they did not want to say no so they wanted the Council to be the bad guys and say no so they did not have to. Purcell asked what had changed since then that we are taking an idea that was bad four years ago because of EPA problems, safety issues and other issues, why do we want to change it now to go back to that same mess.

Baxter said he had been approached by a lot of groups, mainly booster clubs, and they do not understand why they cannot have a car wash at the school and raise money for their booster club. He said he had read minutes of the previous meetings Purcell mentioned.

Purcell said many car wash owners have offered use of their facilities, and the Mayor had done so, and that was so the dirt and grease could be properly collected and not cause EPA type problems. Baxter said no one had ever been sued by the EPA for having a car wash; Oklahoma City does not have an ordinance anywhere close to this and operates under the same EPA standards as Lawton but they are allowed to have charitable car washes on every corner. Baxter said he addressed some of the concerns about the number of car washes that any particular group of people can have; he addressed the concerns of having a reasonable permit fee and a reasonable fine if someone is caught doing it without the permit, anywhere from \$100 to \$300 fine. Shanklin said he thought schools could have car washes. Baxter said they cannot do it on school property.

Mayor Powell asked if anyone in the audience would like to speak on this issue.

Mark Glenn, #1 SE 71st Street, said he is one of the car wash owners who was present several years ago and all the problems mentioned were discussed. He said at the end of that meeting, the compromise was that the car wash owners agreed to let the charitable organizations use their pits, and he has done so since that date, he has allowed charitable organizations to use one of his pits any day they wanted to, all day and all free water, so that was the compromise and there are hundreds of charitable car washes and they need to make agreements with the companies to use the pits.

Glenn said another problem was with the EPA; there is soap, dirt, wax and other chemicals involved in washing a car and those were going down the storm sewers which drain to lakes and creeks. He said the storm sewers in the downtown area have statements saying "dump no waste - drains to creek".

Glenn said some organizations do not want to do the labor so for the Giddy Up and Go organization he gave car wash coupons that can be used in auctions to earn money. He said since the ordinance was passed a few years ago, he had taken car wash money and given to the Sullivan Village Elementary School booster club, the Eisenhower

High School football team, Douglas Elementary, United Way, Future Farmers of America, Junior League of Lawton, the YMCA, the Armed Forces YMCA, and the Civilian Spouses Club at Fort Sill, Arts For All, Girl Scouts, Boy Scouts, Kids Zone, Lawton Community Theatre, Kiwanis, Fellowship of Christian Athletes, AMBUCS, and Boulevard of Lights. Glenn said he was doing his part and did not know there was a problem. Baxter said he understood Glenn's view and that he did way more than the average citizen. Glenn asked that the ordinance not be changed because it keeps pollution from entering the storm sewers and the car wash owners work with the charitable organizations.

Baxter said people wash their cars in their driveways so that gets down those same drains. He said car washes are held at Burger King and Love's Store every weekend because it is outside the city limits, and the waste eventually comes to Lawton.

MOVED by Baxter, to approve the ordinance, waive reading of the ordinance and read the title only. MOTION DIED FOR LACK OF SECOND.

Baxter said to the citizens who are getting ready to vote in the March 12 election, he thought this would prove that some of the council members that are up for re-election do not support the youth of this city.

28. Consider adopting a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, by adding fees relating to charitable car washes. Exhibits: Res. 02-____.

This item was stricken.

29. Acknowledge and accept payment from Wal-Mart Stores, Inc. for purchase of property at 67th and Quanah Parker Trailway and provide guidance to staff for disposition of these funds. Exhibits: None.

Shanklin said staff's proposed use of funds is for maintenance items and he did not know how those funds could be used for maintenance. Baker said the primary request is for Council to accept this money and he had asked for some of the money to pay for roof repairs that are on-going and have already started. Baker said if funding did not come from this source, it would have to come from another source, and the City Attorney's Office said this would be a legitimate expense under the CIP. He said if Council decided not to use the money for the roof, they would find the money elsewhere.

Shanklin said he did not see how they were bridging the gap between maintenance and capital improvement. Vincent said capital improvement includes any repair and maintenance to a capital structure and city buildings are capital structures. Shanklin asked if that was in the resolution or in the small print and he said we did not ever tell anyone that when we asked them to pass the CIP. Vincent said he was not here when the 1990 CIP was done but had only looked at the legal definitions and these would appear to be legitimate expenses under the 1990, 1995 and 2000 CIP's.

Purcell agreed with Shanklin that these are maintenance items and suggested the money be saved in case something is needed on 67th Street, and it may be needed to add to whatever Wal-Mart is going to contribute to the road work. He said the roofs need to be done, but not out of this money.

MOVED by Moeller, SECOND by Devine, to accept the money and reserve it for 67th Street renovation at this time. AYE: Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

31. Consider entering into an agreement to cost-share in the construction of a sanitary line to serve a building at 218 SE Larrance Avenue requested by Donald Bentley. Exhibits: Letter of Request; General Location Map; Proposed Agreement.

Bigham said an agreement was drafted according to Mr. Bentley's request letter and since that time a modified agreement has been distributed; the Bentley's have been dealing with the issue of not having sewer at this building for quite a while and when they checked with their consulting engineer on how long it would take to do the plans, it was considerable time and a request was made for the City to do the engineering, as opposed to the applicant. The other change is the City of Lawton would apply for the DEQ permit and pay those costs.

MOVED by Shanklin, SECOND by Haywood, that the agreement, as modified, for the cost-share in the construction of the sewer line at 218 SE Larrance be approved. AYE: Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. OUT: Baxter. MOTION CARRIED.

Shanklin said this is not anything that we have not done in the past and we have done it recently on Cache Road.

Mayor Powell asked that Item 33 be considered at this time.

33. Receive bids for sale of \$4,000,000 General Obligation Bonds, Series 2002, and award the sale of the bonds to the lowest bidder. Exhibits: None.

Steve Livingston, Finance Director, said bids were received this afternoon on the \$4 million General Obligation Bond, and this item is to recognize receipt of the bids and award to the best bidder. He said Mike Prescott, Wells, Nelson & Associates, is here to present the bids.

Prescott said a bid summary sheet was distributed prior to the meeting. Seven bids were received with the low bid being from BancOne Capital of Chicago at an average interest rate of 3.794761%, and the other bids are also shown. He recommended going with the lowest bid.

MOVED by Shanklin, SECOND by Haywood, to award the bid as recommended by Mr. Prescott. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Bass. NAY: None. OUT: Baxter. MOTION CARRIED.

32. Consideration and approval of an ordinance providing for the issuance of General Obligation Bonds in the sum of \$4,000,000 by the City of Lawton, Oklahoma, authorized at an election duly called and held for such purpose; prescribing form of bonds; providing for registration thereof; prescribing provisions for redemption of bonds; designating bonds for purposes of certain provisions of the Internal Revenue Code; naming a paying agent and registrar; approving a continuing disclosure agreement; approving the official statement pertaining to the bonds; providing for the levy of an annual tax for payment of principal and interest on the same; fixing other details of the issue; and declaring an emergency. Exhibits: Ordinance No. 02-9.

MOVED by Purcell, SECOND by Moeller, to approve emergency Ordinance No. 02-9, waive the reading of the ordinance, read the title only and declare an emergency.

(Title read by City Attorney) Ordinance No. 02-9

An ordinance providing for the issuance of General Obligation Bonds in the sum of \$4,000,000 Dollars by the City of Lawton, Oklahoma, authorized at an election duly called and held for such purpose; prescribing form of bonds; providing for registration thereof; prescribing provisions for redemption of bonds; naming a paying agent and registrar; approving a continuing disclosure agreement; approving the official statement pertaining to the bonds; making certain elections; providing for the levy of an annual tax for payment of principal and interest on the same; fixing other details of the issue; and declaring an emergency.

VOTE ON MOTION: AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Bass, Hanna. NAY: None. OUT: Baxter. MOTION CARRIED.

34. Consider enacting a new ordinance regulating pretreatment facility discharges for the purpose of prohibiting noxious or malodorous discharges, providing for codification and severability, and declaring an emergency. Exhibits: Ordinance No. 02-10.

Jerry Ihler, Public Works Director, said the residents of Bly's Pointe, Almor West, and Wyatt Acres have complained about foul odors coming from the industrial park. He said three weeks ago the City Manager asked him to assume the responsibilities of trying to take care of this issue, so he had discussion with DEQ as to how it should be handled and we felt at that time that it should be handled as an air quality issue. Ihler said through discussions with DEQ they felt and we agree that the odor is a result of the wastewater treatment plant at one of the industries in the park so they felt it should be handled through the industrial pretreatment program. He said there is similar language in the industrial pretreatment program as is presented here, however, the language as it exists today is that any pollutant or wastewater which will interfere with the operation or performance of the POTW. Ihler said the odor does not interfere with the operation of the collection system or the wastewater treatment plant, so therefore the City Attorney, in dealing with DEQ, created an addition as shown in the proposed ordinance that will allow us to address this issue along the lines of the industrial pretreatment program. He recommended approval of the ordinance to allow us to move forward; we have been in contact with DEQ and this must receive their approval for the revision to the existing industrial pretreatment program and they are aware it is coming so it should be considered in a fairly timely manner.

MOVED by Moeller, SECOND by Devine, to adopt Ordinance No. 02-10, waive the reading of the ordinance, read the title only and declare an emergency.

(Title read by City Attorney) Ordinance No. 02-10

An ordinance relating to pretreatment facility discharges, enacting a new ordinance regulating pretreatment facility discharges for the purpose of prohibiting noxious or malodorous discharges, providing for codification and severability, and declaring an emergency.

VOTE ON MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Bass, Hanna, Devine. NAY: None. OUT: Baxter. MOTION CARRIED.

35. Consider an ordinance amending Section 10-1206, Article 12, Chapter 10, Lawton City Code, 1995, relating to the definitions of certain persons and entities to be exempt from the Hotel/Motel tax, and providing an effective date. Exhibits: Ordinance No. 02-11.

Purcell said last time Council passed an ordinance removing requirements for exemptions from Revenue Services and placing them on the hotels. He said when he read "permanent residents" in the ordinance, he thought it meant citizens of Lawton, but it meant people who were booked into a hotel for 16 or 30 days or some number, they are kind of long term residents in motels and they were exempt from the tax, but the regular citizens had to pay the tax. Purcell said it is proposed to be changed to read "a resident of the City of Lawton who provides a copy of the resident's current city water bill" and they would be exempt; we have deleted United State Government and agencies, the State of Oklahoma, and when Fort Sill personnel go anywhere, they pay taxes everywhere in the country. He said when Council members go to Oklahoma City or to the national conferences, we are required to pay the tax and are not exempt. Purcell said the last one also needed to be deleted related to charitable and non-profit organizations because there are many people who belong to churches, and that could cause an exemption; people belong to a senior organization and you can join it and get travel and motel discounts, it is a non-profit organization so they would be exempt from the tax. He said we have now dumped it on the hotels to try to figure out who is exempt and who is not, and even if we put it back on the city and they issue certificates of exemption, no one bothers to check. Purcell recommended deleting paragraph four and the only exemption is for a resident of the City of Lawton who provides a copy of the resident's current City of Lawton water bill, and that may have to be changed because those living in apartment complexes may have their water paid as part of their rent and it would not likely affect a lot of people but there may be a way to get around that.

Vincent suggested it could say a resident of the City of Lawton who provides a copy of the resident's current City of Lawton water bill or a driver's license showing a City of Lawton address. Purcell said that makes sense and the motel could make a copy of the water bill or driver's license and that would be the proof of exemption and it could be sent in with the payment, rather than requiring another form.

Jamie Hall said the relationship that has developed between the hotels and motels and the City staff has been very favorable, and everyone who had been through the audit process had made positive remarks. He said if it is as simple as a water bill or driver's license, then motel operators would be able to effectively do that, but if there are other exemptions or qualifications to be met, they would be looking at trying to have several different people make that determination and they may not all come up with the same results. Hall said if it was going to be anything like that, he would request a certificate of exemption with someone other than the hotels making that determination. He said the code also says the hotel is liable in case of discrepancies.

Devine said it would seem simpler to have no exemptions whatsoever because normal residents do not stay in a motel to start with, or if they do it would be very seldom. Hall said during last year's storm, most of the occupancy was from local residents. Devine said that was a case of people being in distress. Purcell said they would not have to pay the tax under this proposal.

Baxter said he sold a house a few months back and was displaced for a month in transition, and he stayed in a hotel and had to pay the tax and he did not like it very much.

Moeller said some apartment dwellers are military and do not have an Oklahoma drivers license, so if the apartment is being renovated or there is a fire or flood, they should get an exemption. Shanklin said there could be many, many individual cases. Moeller said it might be a good idea to waive the tax for a couple of weeks if there were a storm or emergency. Vincent said most of those in apartments without Oklahoma drivers licenses will be military and he could work with Colonel Steuber to see what kind of document they could provide from the military showing they are here as a permanent or temporary resident and the code can be amended on that at a later date.

MOVED by Purcell, SECOND by Hanna, to approve Ordinance No. 02-11, read the title of the ordinance only, waive the reading of the rest of the ordinance, that reads there is one exemption and that is a resident of the City of Lawton who provides a copy of the resident's current City of Lawton water bill or a driver's license showing a Lawton address, those are the only exemptions and numbers two, three and four are gone.

(Title read by City Attorney) Ordinance No. 02-11

An ordinance pertaining to hotel/motel tax amending Section 10-1206, Article 12, Chapter 10, Lawton City Code, 1995, amending definitions of certain persons and entities to be exempt from the hotel/motel tax, and providing for an effective date.

VOTE ON MOTION: AYE: Shanklin, Moeller, Haywood, Baxter, Bass, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

Hall asked that whatever determination is made regarding the military be as clear and precise for the hotels as this. Steuber said a set of orders assigning a person to Fort Sill seems very precise.

36. Consider an ordinance pertaining to court costs amending Section 9-126, Article 1, Chapter 9, Lawton City Code, 1995, increasing the amount of court costs chargeable in municipal criminal court, and declaring an emergency. Exhibits: Ordinance No. 02-12.

MOVED by Baxter, SECOND by Bass, to approve Ordinance No. 02-12, waive reading of the ordinance, read the title only, and declaring an emergency.

(Title read by City Attorney) Ordinance No. 02-12

An ordinance pertaining to courts costs amending Section 9-126, Article 1, Chapter 9, Lawton City Code, 1995, increasing the amount of court costs chargeable in municipal criminal court and declaring an emergency.

VOTE ON MOTION: AYE: Moeller, Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

Addendum:

1. Consider adopting a resolution amending Resolution 01-102 by removing term limits and allowing for members to be represented by designees on the Emergency Management Advisory Committee. Exhibits: Resolution No. 02-33.

MOVED by Shanklin, SECOND by Purcell, to approve Resolution No. 02- AYE: Haywood, Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

(Title) Resolution No. 02-33

A resolution amending Resolution No. 01-102 by removing term limits and allowing for members to be represented by designees on the Emergency Management Advisory Committee.

Mayor Powell said this will allow some organizations to be represented by designees and there has been a problem with attendance due to not having this provision.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Col. Steuber thanked the City for its outstanding support of their primary exercise on Monday. He said Doug Wells and the Communications Center staff did a superb job, and the Fire and Police Departments were both well and ably represented, and Comanche County. Col. Steuber said Fort Sill will also participate on April 12 when they will do their access control exercise and coordinate with the City due to the traffic involved, and they will exercise the plan as it controls access to the post as it was on September 12-14. He said they designated essential personnel and established two park and rides where they will not have to do 100% inspection of all the vehicles but just park them in a lot and use buses internal to Fort Sill to move personnel to their places of business, although waits at the gate will still be significant.

Shanklin said this Council and previous Councils for about 15 years have sponsored a \$5.5 million Parks & Recreation budget and that includes all those little kids and others, and we just passed a \$200,000 skateboard park that he did not particularly like but supported. He said we should remember in the very near future that we will be putting mowing charges on water bills for those who do not comply, and there will be some battles to be fought in that regard.

Devine said after all of the discussion about the CPC and the Task Force he thought the Council came up with a decent solution and hopefully everyone will be happy with it.

Baxter said the election is March 12, whether you support the sales tax or not it is important to get out and vote, and vote for whoever you want on City Council.

Moeller said the follow-up on the Teen Council by the Mayor was an excellent idea and an asset to the City because the teens need to feel included and they are important. She wished Shanklin a happy birthday yesterday.

Baker said Council approved a youth services coordinator position several months ago and it has taken quite some time to recruit and he will be interviewing this week and have a selection hopefully before the end of the week. He said he would be recommending that we place that staff position in the Parks & Recreation Department; Council initially indicated they wanted the position to respond directly to the City Manager but at this time he would feel very comfortable placing this in Parks & Recreation. Baker said this position should also be very active with the Teen Council and other groups.

Mayor Powell said Shahan had put together a basketball schedule for city staff members, and teams play every Monday night at 6 p.m. at the H.C. King Center. He said it was a lot of fun.

BUSINESS ITEMS:

37. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the lawsuit of Derek Bazile and Rodney Turner, Case No. CS-2001-695, District Court of Comanche County against the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

38. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the possible settlement of the following damage claims recommended for approval, consider passage of any resolution authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: Walter Lopez, Karena Lopez, Melody Lopez, Evonne Lopez, and Megan Lopez, and if necessary, take appropriate action in open session. Exhibits: None.

39. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending tort claim of Kevin Dewayne Waters against the City of Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

40. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2002-2003 between the Police Union, IUPA, Local 24, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

Vincent asked that Item 37 be stricken.

MOVED by Baxter, SECOND by Purcell, to convene in executive session as shown on the agenda and recommended by the legal staff, not to include Item 37. AYE: Baxter, Bass, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 10:15 p.m. and reconvened in regular, open session at approximately 10:30 p.m. with roll call reflecting all members present.

Mayor Powell said Item 37 was requested to be stricken by the City Attorney and it was not considered in executive session.

Vincent reported on Item 38 that pursuant to Section 307B.4, Title 25, Oklahoma Statutes, we convened in executive session to discuss the possible settlement of damage claims involving Walter Lopez, and those listed in the item title. He recommended the following action, the minor Lopez children, Karena, Melody, Evonne and Megan, their claim has been withdrawn; the remaining claim is Walter Lopez and a settlement offer of \$12,500 was received. Vincent requested a motion to approve a resolution authorizing settlement in the amount of \$12,500 and all related documents.

MOVED by Shanklin, SECOND by Devine, to approve the resolution. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Bass. NAY: None. MOTION CARRIED.
(Title) Resolution No. 02-34

A resolution authorizing the City Attorney to enter into a settlement agreement for the sum of Twelve Thousand Five Hundred and no/100 Dollars (\$12,500.00) as settlement of claims filed by Walter Lopez, Karena Lopez, Melody Lopez, Evonne Lopez, and Megan Lopez, said Walter Lopez being the parent and legal guardian of Melody Lopez, Evonne Lopez, and Megan Lopez, minor children, by and through their attorney, Tommy L. Sims, and directing the City Attorney to assist with preparing and filing a friendly suit including a journal entry incorporating said resolution and settlement agreement for the approval of the District Court of Comanche County, Oklahoma.

Vincent reported on Item 39 that pursuant to Section 307B.4, Title 25, Oklahoma Statutes, we convened in executive session to discuss the pending tort claim of Kevin Dewayne Waters against the City of Lawton. Discussion took place and the City Attorney's Office recommends no action at this time.

Vincent reported on Item 40 that pursuant to Section 307B.2, Title 25, Oklahoma, Statutes, we convened in executive session to discuss negotiations for a collective bargaining agreement for FY 2002-2003 between the Police Union, IUPA Local 24, and the City of Lawton. The City Attorney's Office and City Manager recommend that John Vincent and Rick Endicott be named as the negotiators for the City of Lawton with the Police Union and that John Vincent be the chief negotiator.

MOVED by Purcell, SECOND by Hanna, to approve the recommendation as stated. AYE: Devine, Purcell, Moeller, Haywood, Bass, Hanna. NAY: Shanklin, Baxter. MOTION CARRIED.

Vincent said that would conclude his report.

Mayor Powell said on March 5 at 4:45 p.m. there will be a Transit and Council meeting, followed by the League of Women Voters debate.

There being no further business to consider, the meeting adjourned at 10:40 p.m. upon motion, second and roll call vote.